

AMENDED IN ASSEMBLY JULY 5, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MARCH 19, 2001

SENATE BILL

No. 40

Introduced by Senator Alarcon
(Coauthor: Assembly Member Shelley)

December 5, 2000

~~An act relating to unemployment insurance.~~ *An act to amend Sections 1222, 1262, 1275, 1280, and 1327 of, and to add Sections 1262.1 and 1265.1 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as amended, Alarcon. Unemployment insurance: benefits: compensation.

(1) *Existing law provides that an individual is not eligible for and may not receive unemployment compensation benefits if the individual left work because of a trade dispute.*

This bill would exempt from this ineligibility provision an individual who leaves his or her work because of a trade dispute that is the result of a reduction in wages and benefits that would otherwise be deemed good cause for the individual leaving his or her most recent work. This bill would also provide that unemployment compensation benefits may not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.

(2) Existing law specifies that a person is “unemployed” in any week during which he or she performs no services and with respect to which no wages are payable to him or her.

This bill would require that payments received from an employer, that has failed to provide advance notice of facility closure required by the federal Worker Adjustment Renotification and Training Act, not be construed to be wages or compensation for personal services for purposes of determination of eligibility for unemployment compensation benefits.

(3) Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.

This bill would, as specified, revise the calculations for these base periods, and would set forth the base period for any new claim filed on and after January 1, 2002, if an individual has not been paid sufficient wages to establish a benefit year.

The bill would require the Department of Employment Development to request wage information with regard to these new claims, and would assess a penalty of \$250 on an employer who fails to provide this information within 10 days from the requested date.

(4) Under existing law, the weekly unemployment compensation benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount is 39% of those wages divided by 13, but may not exceed \$230.

This bill would, for new claims filed with an effective date after January 1, 2002, specify a weekly benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount of 50% of those wages divided by 13, and would also increase, in accordance with a certain schedule, the maximum weekly benefit to the greater of a specified dollar amount or an amount equal to a specified percentage of the state’s average weekly wage for the prior fiscal year.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

~~Existing law provides for unemployment compensation benefits.~~

~~This bill would, as provided, state the intent of the Legislature to enact legislation with regard to eligibility for unemployment compensation benefits, base periods to determine unemployment~~

~~compensation benefits, and an increase in amounts of unemployment compensation paid.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact~~

2 *SECTION 1. Section 1222 of the Unemployment Insurance*
3 *Code is amended to read:*

4 1222. Within 30 days of service of any notice of assessment
5 or denial of claim for refund or credit under Sections 803, 821,
6 844, or 991, or of any notice under Sections 704.1, 1035, 1055,
7 1127.5, 1131, 1142, 1143, 1144, 1180, 1184, 1327, 1733, and
8 1735, any employing unit or other person given the notice, or any
9 employing unit affected by a granting or denial of a transfer of
10 reserve account, may file a petition for review or reassessment
11 with an administrative law judge. The administrative law judge
12 may for good cause grant an additional 30 days for the filing of a
13 petition. If a petition for reassessment is not filed within the 30-day
14 period, or within the additional period granted by the
15 administrative law judge, an assessment is final at the expiration
16 of the period. If a petition for review of a termination of elective
17 coverage under Section 704.1 is not filed within the 30-day period,
18 or within the additional period granted by the administrative law
19 judge, the termination is final at the expiration of the period. If the
20 director fails to serve notice of his or her action within 60 days after
21 a claim for refund or credit is filed, the person or employing unit
22 may consider the claim denied and file a petition with an
23 administrative law judge.

24 *SEC. 2. Section 1262 of the Unemployment Insurance Code*
25 *is amended to read:*

26 1262. An individual is not eligible for unemployment
27 compensation benefits, and no ~~such benefit~~ benefits shall be
28 payable to him or her, if he or she left his or her work because of
29 a trade dispute. ~~Such individual, except that benefits may not be~~
30 ~~denied to that individual if the trade dispute is the result of a~~
31 ~~reduction in wages and benefits that would be deemed good cause~~
32 ~~under this article for an individual leaving his or her most recent~~
33 ~~work. An ineligible individual under this section shall remain~~

ineligible for the period during which he *or she* continues out of work by reason of the fact that the trade dispute is still in active progress in the establishment in which he *or she* was employed.

SEC. 3. Section 1262.1 is added to the Unemployment Insurance Code, to read:

1262.1. Notwithstanding Section 1262, unemployment compensation benefits may not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.

SEC. 4. Section 1265.1 is added to the Unemployment Insurance Code, to read:

1265.1. Notwithstanding any other provision of this division, payments to an individual by an employer who has failed to provide the advance notice of facility closure required by the federal Worker Adjustment Renotification and Training (WARN) Act (29 U.S.C. Sec. 1201 et seq.) shall not be construed to be wages or compensation for personal services under this division, and benefits payable under this division shall not be denied or reduced because of the receipt of payments related in any way to an employer's violation of the WARN Act.

SEC. 5. Section 1275 of the Unemployment Insurance Code is amended to read:

1275. (a) Unemployment compensation benefit award computations shall be based on wages paid in the base period. "Base period" means: for benefit years beginning in *October*, *November*, *or December*, ~~or January~~, the four calendar quarters ended in the next preceding month of June; for benefit years beginning in *January*, *February*, *or March*, ~~or April~~, the four calendar quarters ended in the next preceding month of September; for benefit years beginning in *April*, *May*, *or June*, ~~or July~~, the four calendar quarters ended in the next preceding month of December; for benefit years beginning in *July*, *August*, *or September*, ~~or October~~, the four calendar quarters ended with the next preceding month of March. Wages used in the determination of benefits payable to an individual during any benefit year shall may not be used in determining ~~such~~ that individual's benefits in any subsequent benefit year.

(b) For any new claim filed with an effective date on or after January 1, 2002, if an individual has not been paid sufficient wages in the first four of the last five completed calendar quarters

to entitle the individual to establish a benefit year; then “base period” means the last four completed calendar quarters before the first day of the individual’s benefit year as defined in Section 1276. Each quarter of this base period shall consist of four consecutive 13-week periods. As provided in Section 1280, the quarter with the highest wages shall be used to determine the individual’s weekly benefit amount.

SEC. 6. Section 1280 of the Unemployment Insurance Code is amended to read:

1280. (a) For any new claims filed with an effective date on or after January 1, ~~1990~~ 1992, and prior to January 1, 2002, an individual’s weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A ~~which~~ that contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

	A	B
	Amount of wages in	Weekly benefit
	highest quarter	amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59

1	1,495.00–1,520.99	60
2	1,521.00–1,546.99	61
3	1,547.00–1,585.99	62
4	1,586.00–1,611.99	63
5	1,612.00–1,637.99	64
6	1,638.00–1,676.99	65
7	1,677.00–1,702.99	66
8	1,703.00–1,741.99	67
9	1,742.00–1,767.99	68
10	1,768.00–1,806.99	69
11	1,807.00–1,832.99	70
12	1,833.00–1,871.99	71
13	1,872.00–1,897.99	72
14	1,898.00–1,936.99	73
15	1,937.00–1,975.99	74
16	1,976.00–2,001.99	75
17	2,002.00–2,040.99	76
18	2,041.00–2,066.99	77
19	2,067.00–2,105.99	78
20	2,106.00–2,144.99	79
21	2,145.00–2,170.99	80
22	2,171.00–2,209.99	81
23	2,210.00–2,248.99	82
24	2,249.00–2,287.99	83
25	2,288.00–2,326.99	84
26	2,327.00–2,352.99	85
27	2,353.00–2,391.99	86
28	2,392.00–2,430.99	87
29	2,431.00–2,469.99	88
30	2,470.00–2,508.99	89
31	2,509.00–2,547.99	90
32	2,548.00–2,586.99	91
33	2,587.00–2,625.99	92
34	2,626.00–2,664.99	93
35	2,665.00–2,703.99	94
36	2,704.00–2,742.99	95
37	2,743.00–2,781.99	96
38	2,782.00–2,820.99	97
39	2,821.00–2,859.99	98



1	2,860.00–2,898.99	99
2	2,899.00–2,937.99	100
3	2,938.00–2,989.99	101
4	2,990.00–3,028.99	102
5	3,029.00–3,067.99	103
6	3,068.00–3,106.99	104
7	3,107.00–3,158.99	105
8	3,159.00–3,197.99	106
9	3,198.00–3,236.99	107
10	3,237.00–3,288.99	108
11	3,289.00–3,327.99	109
12	3,328.00–3,379.99	110
13	3,380.00–3,418.99	111
14	3,419.00–3,470.99	112
15	3,471.00–3,509.99	113
16	3,510.00–3,561.99	114
17	3,562.00–3,600.99	115
18	3,601.00–3,652.99	116
19	3,653.00–3,704.99	117
20	3,705.00–3,743.99	118
21	3,744.00–3,795.99	119
22	3,796.00–3,847.99	120
23	3,848.00–3,899.99	121
24	3,900.00–3,938.99	122
25	3,939.00–3,990.99	123
26	3,991.00–4,042.99	124
27	4,043.00–4,079.99	125
28	4,080.00–4,116.99	126
29	4,117.00–4,153.99	127
30	4,154.00–4,190.99	128
31	4,191.00–4,227.99	129
32	4,228.00–4,264.99	130
33	4,265.00–4,301.99	131
34	4,302.00–4,338.99	132
35	4,339.00–4,375.99	133
36	4,376.00–4,412.99	134
37	4,413.00–4,449.99	135
38	4,450.00–4,486.99	136
39	4,487.00–4,523.99	137



1	4,524.00–4,560.99	138
2	4,561.00–4,597.99	139
3	4,598.00–4,634.99	140
4	4,635.00–4,671.99	141
5	4,672.00–4,708.99	142
6	4,709.00–4,745.99	143
7	4,746.00–4,782.99	144
8	4,783.00–4,819.99	145
9	4,820.00–4,856.99	146
10	4,857.00–4,893.99	147
11	4,894.00–4,930.99	148
12	4,931.00–4,966.99	149

13

14 ~~(b) For new claims filed with an effective date beginning on or~~
 15 ~~after January 1, 1990, and prior to January 1, 1991, if the amount~~
 16 ~~of wages paid an individual for employment by employers exceeds~~
 17 ~~four thousand nine hundred sixty-six dollars and ninety-nine cents~~
 18 ~~(\$4,966.99) the quarter of his or her base period in which these~~
 19 ~~wages were highest, the individual's weekly benefit amount shall~~
 20 ~~be 39 percent of these wages divided by 13, but in no case shall this~~
 21 ~~amount exceed one hundred ninety dollars (\$190). If the benefit~~
 22 ~~payable under this subdivision is not a multiple of one dollar (\$1);~~
 23 ~~it shall be computed to the next higher multiple of one dollar (\$1).~~

24 ~~(c) For new claims filed with an effective date beginning on or~~
 25 ~~after January 1, 1991, and prior to January 1, 1992, if the amount~~
 26 ~~of wages paid an individual for employment by employers exceeds~~
 27 ~~four thousand nine hundred sixty-six dollars and ninety-nine cents~~
 28 ~~(\$4,966.99) in the quarter of his or her base period in which these~~
 29 ~~wages were highest, the individual's weekly benefit amount shall~~
 30 ~~be 39 percent of these wages divided by 13, but in no case shall this~~
 31 ~~amount exceed two hundred ten dollars (\$210). If the benefit~~
 32 ~~payable under this subdivision is not a multiple of one dollar (\$1);~~
 33 ~~it shall be computed to the next higher multiple of one dollar (\$1).~~

34 ~~(d) For new claims filed with an effective date beginning on or~~
 35 ~~after January 1, 1992, if the amount of wages paid an individual~~
 36 ~~for employment by employers exceeds four thousand nine~~
 37 ~~hundred sixty-six dollars and ninety-nine cents (\$4,966.99) in the~~
 38 ~~quarter of his or her base period in which these wages were highest,~~
 39 ~~the individual's weekly benefit amount shall be 39 percent of these~~
 40 ~~wages divided by 13, but in no case shall this amount exceed two~~

~~hundred thirty dollars (\$230). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).~~

If the amount of wages paid an individual for employment by employers exceeds four thousand nine hundred sixty-six dollars and ninety-nine cents (\$4,966.99) in the quarter of his or her base period in which these wages were highest, the individual's weekly benefit amount shall be 39 percent of these wages divided by 13, but in no case shall this amount exceed two hundred thirty dollars (\$230). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(b) For new claims filed with an effective date beginning on or after January 1, 2002, an individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A that contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A	B
Amount of wages in	Weekly benefit
highest quarter	amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57

1	1,430.00–1,455.99	58
2	1,456.00–1,494.99	59
3	1,495.00–1,520.99	60
4	1,521.00–1,546.99	61
5	1,547.00–1,585.99	62
6	1,586.00–1,611.99	63
7	1,612.00–1,637.99	64
8	1,638.00–1,676.99	65
9	1,677.00–1,702.99	66
10	1,703.00–1,741.99	67
11	1,742.00–1,767.99	68
12	1,768.00–1,806.99	69
13	1,807.00–1,832.99	70

14
 15 *If the amount of wages paid an individual for employment by*
 16 *employers exceeds one thousand eight hundred thirty-two dollars*
 17 *and ninety-nine cents (\$1,832.99) in the quarter of his or her base*
 18 *period in which these wages were highest, the individual's weekly*
 19 *benefit amount shall be 50 percent of these wages divided by 13,*
 20 *but in no case shall this amount exceed the applicable of the*
 21 *following:*

22 *(1) For new claims filed with an effective date beginning on or*
 23 *after January 1, 2002, and before January 1, 2003, three hundred*
 24 *dollars (\$300), or 45 percent of the state's average weekly wage*
 25 *for the prior fiscal year, whichever is greater.*

26 *(2) For new claims filed with an effective date beginning on or*
 27 *after January 1, 2003, and before January 1, 2004, three hundred*
 28 *forty dollars (\$340) or 50 percent of the state's average weekly*
 29 *wage for the prior fiscal year, whichever is greater.*

30 *(3) For new claims filed with an effective date beginning on or*
 31 *after January 1, 2004, three hundred eighty dollars (\$380) or 50*
 32 *percent of the state's average weekly wage for the prior fiscal year,*
 33 *whichever is greater.*

34 *If the benefit payable under this subdivision is not a multiple of*
 35 *one dollar (\$1), it shall be computed to the next higher multiple of*
 36 *one dollar (\$1).*

37 *SEC. 7. Section 1327 of the Unemployment Insurance Code*
 38 *is amended to read:*

39 1327. (a) The department shall give a notice of the filing of
 40 a new or additional claim to the employing unit by which the

claimant was last employed immediately preceding the filing of the claim unless the additional claim is the result of the filing of a partial claim as defined by the department, there has not been a subsequent employing unit which is designated as the last employer, and there is no separation issue. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known ~~which~~ *that* may affect the claimant's eligibility for benefits, including, but not limited to, facts pertaining to eligibility under Section 1256. The 10-day period may be extended for good cause. If after the 10-day period the employing unit acquires knowledge of facts ~~which~~ *that* may affect the eligibility of the claimant and facts could not reasonably have been known within the period, the employing unit shall, within 10 days of acquiring the knowledge, submit the facts to the department, and the 10-day period may also be extended for good cause.

(b) Upon the filing of a new claim for benefits, if an individual is entitled under subdivision (b) of Section 1275 to establish a claim using a base period of the last four completed calendar quarters before the first day of the individual's benefit year, the department shall request wage information covering the quarters, as defined in subdivision (b) of Section 1275. The wage information shall be used by the department to promptly make a computation on the claim as provided in Section 1329. If an employer fails to provide wage information to the department within 10 days from the requested date, the employer shall be assessed a penalty of two hundred fifty dollars (\$250). The provisions of this article, Article 9 (commencing with Section 1176) of Chapter 4, with respect to refunds, and Chapter 7 (commencing with Section 1701), with respect to collections, apply to the assessments provided by this section. Penalties collected under this section shall be deposited in the Contingent Fund.

~~legislation that would do all of the following:~~

~~(a) Provide that an individual is eligible to receive unemployment compensation benefits even if the individual left work because of a trade dispute, where the trade dispute is the result of a reduction in wages and benefits that would otherwise be deemed good cause for the individual leaving his or her most recent work.~~

1 ~~(b) Provide that unemployment compensation benefits may not~~
2 ~~be denied to an otherwise eligible individual who is locked out by~~
3 ~~his or her employer after having made an unconditional offer to~~
4 ~~return to work.~~

5 ~~(c) Require that payments received from an employer, that has~~
6 ~~failed to provide the advance notice of facility closure required by~~
7 ~~the federal Worker Adjustment Renotification and Training Act,~~
8 ~~not be construed to be wages or compensation for personal services~~
9 ~~for purposes of determination of eligibility for unemployment~~
10 ~~compensation benefits.~~

11 ~~(d) Revise calculations for base periods used to determine~~
12 ~~unemployment compensation benefits, revise the base period for~~
13 ~~new claims filed after a specified date, and require the~~
14 ~~Employment Development Department to request wage~~
15 ~~information with regard to these new claims.~~

16 ~~(e) For new claims filed after a specified date, increase the~~
17 ~~amount of unemployment compensation paid.~~

